

DELTA PROTECTION COMMISSION

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TO: DELTA PROTECTION COMMISSION
FROM: STAFF
RE: LEGISLATIVE UPDATE (For Your Information Only)

The Commission asked to be updated specifically on the following four bills:

AB 122/ACA 12: Rainey: VESSEL RENEWAL FEES:

This bill, sponsored by Contra Costa County, would require that 20% of the funds from taxes on vessel fuels and vessel registration fees be available to the Department of Boating and Waterways for allocation to each county for boating safety programs, based on the county's pro-rata share of the total statewide boat registrations. AB 122 would become operative only if Assembly Constitutional Amendment 12 (ACA 12) is approved by the voters. ACA 12 would establish the Harbors and Watercraft Fund.

UPDATE: Passed by the Assembly, but is now a two year bill so it will not be heard in the Senate Committee on Appropriations until January, 1996.

AB 360: Hannigan: DELTA LEVEE MAINTENANCE REIMBURSEMENT:

This bill would require the Department of Water Resources, in consultation with the Department of Fish and Game, to develop and submit to the Reclamation Board, criteria for levee maintenance activities, including habitat restoration work that could be performed by the local agencies on project levees. The bill authorizes eligible local agencies be reimbursed for costs incurred in any year for maintenance activities that include benefits to the Sacramento-San Joaquin Delta and the state by providing habitat restoration in accordance with the criteria adopted by the Board.

UPDATE: AB 360 is now a two year bill and won't be heard until January, 1996.

SB 205: Kelley: WASTE DISCHARGE REQUIREMENTS: SEWAGE SLUDGE: WAIVER

SB 205 authorizes the State's nine regional water quality control boards to issue general waste discharge permits for the disposal of non-hazardous Class A sewage sludge, or biosolids, at agronomic rates to agricultural lands. Existing law requires a new permit for each parcel upon which biosolids are being spread, regardless of the source of the biosolids. SB 205 allows the regional boards to waive the requirement for the new permit if it is satisfied that the source of the material has been tested and found to be non-hazardous. This general permit practice is currently being developed by the Central Valley Regional Water Quality Board.

UPDATE: Passed by Assembly and Senate. To enrollment on September 8. The bill was amended to include language that does not restrict the authority of a local government agency to regulate the application of sewage sludge to land, including the planning authority of the Delta Protection Commission.

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The remaining bills are related, to some extent, to elements of the Delta Protection Commission's Land Use and Resource Management Plan for the Primary Zone.

1. ENVIRONMENT.

AB 137, Olberg: Endangered and Threatened Species.

Provides that after January 1, 1996, species may not be added to the lists of endangered or threatened species except by statute. The bill also requires that a cost-benefit analysis (economic assessment report) be prepared, and that a species will not be put on a list unless that report shows the benefits of listing the species outweighs the costs of protecting the species.

UPDATE: Passed by the Assembly; In Senate Committee on Natural Resources and Wildlife.

AB 298, Rainey: Environmental Quality.

Authorizes that a master environmental impact report be prepared for a regional plan prepared pursuant to state law. The bill requires a lead agency to follow prescribed

procedures in obtaining review and approval from a state or local agency of the project, a mitigation plan, or other document. The bill also requires the state or local agency to comply with specified requirements in that review and approval process.

UPDATE: In Assembly Committee on Natural Resources; there has been no action on this bill since April 17, 1995.

AB 350, Bustamante: Endangered Species.

Requires the Fish and Game Commission, in determining to list a species, to consider the range of the species and identify potential sources of funding to carry out all recommendations and suggestions. The bill would require the Fish and Game Commission to issue a report on the costs of listing and delisting species. The bill also authorizes the Commission to consider federal listing of the species as an alternative to state listing.

UPDATE: Passed by the Assembly and is currently in Senate Committee on Natural Resources and Wildlife.

AB 428, Olberg: Endangered Species.

Prior to a species being listed, the Fish and Game Commission must accept a petition for the consideration of the species as threatened. Owners of land which may provide habitat for such species will be prohibited, once that species is listed, from using their land in manner which will adversely affect the existence of such species. This bill would require that land will be excluded from such a requirement if the species to be listed is not observed during the petition's period of review.

UPDATE: In Assembly Committee on Water, Parks and Wildlife; no action on the bill since April 18.

AB 450, Hauser: Creosote Structures.

AB 450 would authorize a person to retain and maintain certain structures treated with creosote that are in whole or in part treated with creosote that are in contact with waters of the state if the structure was in existence on January 1, 1996, under specified conditions. This bill would allow a person to proceed with the installation of certain new or replacement structures treated with creosote that are in contact with waters of the state if all applicable permits have been approved by January 1, 1996, under specified conditions.

UPDATE: Passed by the Assembly. In the Senate Committee on Natural Resources and Wildlife. This is a two-year bill.

AB 468, Vasconcellos: Environmental Regulatory Process: computer technology.

Requires the California Environmental Protection Agency to consult with private industry associations with regard to improving the environmental protection regulatory compliance process, including through the use of computer technology (rather than just consulting with governmental agencies).

UPDATE: Passed by the Assembly. In Senate Committee on Toxics and Public Safety Management.

AB 1332, Sweeney: Environmental Quality: public water systems.

Requires that under the California Environmental Quality Act, a lead agency must consult with a public water system that may be affected by a proposed project. The lead agency must obtain specific information from the public water system, for example, information regarding the public water system's ability to provide water to the proposed project, existing uses, and reasonably foreseeable future projects.

UPDATE: Passed by the Assembly. In the Senate Committee on Housing and Land Use.

AB 1402, House: Endangered Species: compensation to property owners.

Requires the Department of Fish and Game to compensate owners of property damaged or destroyed by protected species, including rare, threatened, or endangered species.

UPDATE: In Assembly Committee on Water, Parks, and Wildlife; no action since April 18.

AB 1630, Olberg: Environmental Filing Fees: exemption.

This bill would exempt applicants from paying environmental filing fees to the Department of Fish and Game when projects are located within the boundaries of a habitat conservation plan or natural community conservation plan.

UPDATE: Passed by the Assembly. In the Senate Committee on Natural Resources and Wildlife.

SB 123, Thompson: Fish and Game Violations.

This bill makes changes in the Fish and Game Code regarding the punishment and charges of taking and selling of animals listed in the Code. [Currently the code makes it a felony to take or sell any fish, bird, mammal, and etc; this bill changes that charge to a misdemeanor.]

UPDATE: Urgency clause was adopted; passed in the Senate and Assembly and sent back to the Senate for unfinished business.

SB 200, Maddy: Environmental Permits.

Creates the Office of Permit Oversight (OPO) in the California Environmental Protection Agency. The OPO must monitor and, if requested by a permit applicant, to intercede in the processing of permit applications for environmental permits by state and local agencies. This bill would also create the Environmental Permit Oversight Fund which specified fee revenue will be deposited into and shall be available to the OPO for administrative costs.

UPDATE: In Senate Committee on Governmental Organization.

SB 739, Polanco: Environmental Regulations.

Requires the California Protection Agency, prior to adopting any regulation that is more stringent than Federal regulations, to determine that there is sufficient evidence demonstrating that the more stringent regulation is necessary to protect public health and safety, or the environment, from reasonably anticipated adverse effects, and is cost-effective.

UPDATE: Failed passage in the Senate Committee on Natural Resources and Wildlife. Reconsideration granted on April 25.

SB 883, Hayden: Endangered Species Act.

This bill would expand the definition of "take" as it applies to the Endangered Species Act to include the degradation of wildlife habitat.

UPDATE: In Senate Committee on Natural Resources and Wildlife . First hearing cancelled on May 9.

SB 1120, Costa: Endangered Species.

Prohibits penalizing the accidental take of candidate, threatened, or endangered species resulting from inadvertent or negligent acts that occur in the ordinary course of otherwise lawful activities.

UPDATE: Passed by the Senate; currently on its first reading in Assembly.

SB 1177, Killea: Endangered Species.

Authorizes the Department of Fish and Game to issue permits for the take of threatened, endangered, and candidate species under specified conditions. The bill would authorize judicial review of any finding by the Fish and Game commission.

UPDATE: Passed by the Senate. In Assembly Committee on Water, Parks and Wildlife.

SB 1255, Senate Natural Resources and Wildlife Committee: Salmon.

Requires the Fish and Game Commission to report to the Legislature on or before July 1, 1995 on the Commission's policy regarding the natural production of salmon.

UPDATE: Passed by the Senate. In Assembly Committee on Natural Resources.

3. LAND USE.

AB 96, Hannigan: Development Projects: financing infrastructure.

Prohibits a public agency from approving a development project unless a demonstrable method exists for financing the necessary roads, schools, water, and sewer facilities, and other public facilities and services. [Public agency includes any state, city, or county agency.]

UPDATE: Failed passage by Assembly Committee on Local Government.

AB 1287, Cortese: Environmental Subdivisions: creation.

The bill would create a new category, known as an environmental subdivision, to be regulated pursuant to the Subdivision Map Act. The bill would define an environmental subdivision as "identified environmentally sensitive land of at least 20 acres, which is divided

into parcels, and which is permanently reserved for the exclusive purpose of providing open space land to serve as biological mitigation for impacts to the environment, or to preserve sensitive habitat in fee ownership rather than with a conservation easement." The bill would provide that minimum lot area requirements established by local zoning codes and general plans shall not apply to the creation of individual parcels of an environmental subdivision.

UPDATE: Passed by the Assembly; currently on third reading in the Senate.

AB 1320, Olberg: Protection of Private Property Rights.

This bill is intended to protect the ownership and use of private property against regulatory taking by state agencies. It requires state agencies to complete private property taking impact analysis before commencing any regulatory action that could result in diminished use or value of private property; it creates a cause of action against the state if any regulatory action infringes on the rights of property owners; and creates within the Resources Agency, the Real Property Ombudsman to represent the rights of property owners.

UPDATE: In Assembly Committee on Judiciary; no action since April 17.

SB 73, Johannessen: Sacramento River Valley Riparian Lands Commission.

This bill creates within the Resources Agency a Sacramento River Valley Riparian Lands Commission. The bill authorizes the Commission to acquire and manage riparian lands and conservation easements in the Sacramento River Valley corridor. The Commission would be required to integrate flood control into the management of those lands and easements.

UPDATE: In Senate Rules Committee; no action since January 19.

SB 190, Costa: San Joaquin River Conservancy: grants: real property.

The bill authorizes the San Joaquin River Conservancy to award grants to public agencies and nonprofit organizations for the purposes of the act, and, to nonprofit organizations for the acquisition of real property.

UPDATE: Passed by the Senate and Assembly; currently in the Senate unfinished business file.

SB 275, Costa: Agricultural Land Conservation.

The bill would enact the Agricultural Land Stewardship Program Act of 1995. The

Act would establish a program for grants from the Department of Conservation to local governments and nonprofit organizations, for the acquisition of agricultural conservation easements. The bill would create the Agricultural Land Stewardship Program Fund consisting of money deposited from specified sources to be available for the program.

UPDATE: Passed by the Senate; currently on its third reading in the Assembly.

SB 333, Campbell: Land Use: development agreements.

This bill requires that any action attacking or setting aside the decision of a city or county to adopt a development agreement be filed in a court within 30 days after the adoption of the ordinance approving the development agreement.

UPDATE: Passed by the Assembly and Senate. Approved by the Governor on August 1, 1995. Chapter 253 of Statutes of 1995.

SB 635, Haynes: Property and Homeowner Protection Act.

The bill enacts the Property and Homeowner Protection Act, which includes findings and declarations of the Legislature relating to the rights of property owners. The bill requires that whenever implementation of a regulatory program by the state or a political subdivision denies a landowner a permitted use of his or her land, the landowner must be compensated. The bill would limit the authority of a public agency to regulate land use, and requires public agencies to review all proposed regulatory actions' impact on the rights of affected property owners.

UPDATE: In Senate Committee on Judiciary; no action since March 8.

SB 1280, O'Connell: Land and Water Conservation Act.

This bill enacts the Land and Water Conservation Act which would allow the Secretary of the Resources Agency to implement a program where property or interests in property may be donated to the state, local governments, or to any nonprofit organization to provide for the conservation of land and water according to certain specifications in the Act. The Act allows for purchasers and sellers of such land that is donated to receive tax credits.

UPDATE: Passed by the Senate; currently in the Assembly Committee on Water, Parks and Wildlife.

4. AGRICULTURE.

AB 188, Machado: Tax Credit for Irrigation Equipment.

This bill authorizes that landowners of multiple parcels zoned in agriculture or timber and which only have a combined total of one dwelling unit on those parcels, be treated as a single assessment unit for the purpose of imposing a special tax levied on a per parcel basis.

UPDATE: Passed by the Assembly; concurrence in the Senate pending an amendment.

AB 389, Cannella: Agriculture: environmental farming.

The bill would require the Department of Food and Agriculture to establish and oversee an environmental farming program, which would be voluntary and would provide incentives to promote environmental farming throughout California. Environmental farming is defined as "agricultural practices that are proven to benefit habitat, air quality, water systems, and wildlife." The incentives provided by the department may include tax credits and waivers of regulatory fees or inspections.

UPDATE: Passed by the Assembly; on its second reading in the Senate.

AB 939, Cortese: California Wine Industry.

This bill authorizes the Assembly Select Committee on Wine Production and Economy to enter into and sponsor a dialogue with wine grape growers, vintners, the University of California, and the California State University to explore the concept of a partnership between state government and the wine industry for the purpose of maximizing research funding to ensure the long-term health and competitive position of the California wine and grape industries.

UPDATE: Passed by the Assembly; currently in the Senate Committee on Rules.

AB 1022, Aguiar: Williamson Act: contracts and cancellation fees.

This bill would require the county assessor to determine the property owner's cancellation fee by certifying the fair market value of the land as though it were free of the Williamson Act contractual restriction.

UPDATE: In Assembly Committee on Natural Resources; no action since

March 6.

SB 175, Maddy: District Agricultural Associations.

This bill would permit the formation of district agricultural associations for the purpose of exhibiting and promoting agricultural industries, industrial enterprises, resources, and products of the state. [Current law does not authorize associations to promote the enterprises, industries, etc.]

UPDATE: Passed by the Senate. In Assembly Committee on Agriculture.

SB 673, Costa: Farm Labor Contractors.

This bill deletes the requirement that the Labor Commissioner conduct an investigation before making a finding as to the satisfactory character, competency, and responsibility of the person applying for a farm labor contractor's license.

UPDATE: Read for second time in Senate. Currently in Senate Committee on Industrial Relations.

SB 831, Costa: California Tomato Commission.

This bill would create the California Tomato Commission in state government. The Commission would be authorized to carry out programs of education, promotion, marketing, and research relating to tomatoes. The bill authorizes the Commission to levy an assessment on producers and handlers of tomatoes, and authorizes the expenditure of those funds for purposes of carrying out the bill. The bill would not become operative without the approval vote of the producers and handlers of tomatoes.

UPDATE: Approved by the Governor on July 31, 1995. Chapter 210 of statutes of 1995.

5. WATER.

AB 120, Katz: Water Transfers.

This bill provides that, upon the termination or completion of a water transfer agreement, the rights to the water returns to the original possessor (the water vendor in the transfer contract).

UPDATE: In Assembly Committee on Water, Parks and Wildlife.

AB 584, Rainey: General Plans: water planning information.

This bill requires cities and counties, upon the next revision of their general plan following January 1, 1996, to consider and include in the administrative record, information relating to water supply availability, provided that this information is available. [NOTE: AB 1005, Cortese and SB 901, Costa are very similar to this legislation, but more inclusive.]

UPDATE: Passed by the Assembly; currently in Senate Committee on Agriculture and Water Resources.

AB 619, Bustamante: Water Facilities: Environmental Bay Byway.

This bill would require the Department of Water Resources to construct a waterway known as the "Environmental Bay Byway" for the purpose of providing water to central and southern California.

UPDATE: In Assembly Committee on Water, Parks, and Wildlife.

SB 129, Kelley: Water Recycling.

This bill would create the Office of Water Recycling within the Department of Water Resources. The bill would require the office to provide assistance to any person seeking to further the development, distribution, or use of recycled wastewater; to work with the State Water Resources Control Board and other state agencies to promote the production and use of recycled water; and to provide information to update the state water plan.

UPDATE: Passed by the Assembly and Senate. Urgency clause adopted. To enrollment.

SB 179, Kelley: Water Reuse Institute.

This bill would appropriate \$50,000, from the General Fund to the University of California to establish a water reuse institute. The purpose of the institute is to enhance the orderly implementation of water reuse and recycling to maintain a sustainable environment for the benefit of California. The bill sets forth the institute's activities.

UPDATE: Approved by the Governor on August 10, 1995. Chapter 422 of Statutes of 1995.

SB 572, Kelley: Waste Discharge Requirements.

This bill authorizes the State Water Resources Control Board to prescribe waste discharge requirements at the Board's discretion.

UPDATE: Approved by the governor on August 10, 1995, chapter 421 of statutes of 1995.

SCR 20, Appropriative Water Rights.

This measure requests the State Water Resources Control Board to review the appropriative rights granted to the federal government pursuant to state law to determine the terms and conditions contained in water rights permits or licenses held by the federal government.

UPDATE: Passed by the Assembly and Senate. To enrollment on September 7, 1995.

6. RECREATION AND ACCESS.

AB 347, Woods: Sportfishing: licenses.

This bill allows landowners who have a lake or pond on their property to take fish from the lake or pond without a license. [NOTE: SB 892 is similar to AB 347.]

UPDATE: Passed by the Assembly; on its third reading in the Senate.

AB 1594, Hannigan: Department of Boating and waterways Marina Construction Loans.

AB 1594 would allow Department of Boating and Waterways loans made to businesses for the construction of marinas to be expended within a four-year period instead of the existing three-year limitation imposed by the Government Code. The bill states that no more than \$34,400,000 can be transferred from the Harbors and Water craft Revolving Fund to the General Fund in accordance with Section 13.95 of the Budget Act of 1994. Lastly, AB 1594 provides \$1,700,000 to the Department for a loan for the Suisun City Marina.

UPDATE: In the Assembly Committee on Water, Parks and Wildlife. This is two-year bill.

7. LEVEES.

AB 832, Woods: Reclamation Board: flood waters.

This bill provides that a levee may be protected or strengthened in the case of emergency during flooding season if the levee or the immediately adjoining property is in danger of injury or destruction from flooding. [Current law does not include the protection of immediately adjoining property.]

UPDATE: In Assembly Committee on Water, parks and Wildlife/Local Government; no action since April 4.

8. MARINE PATROL.

AB 742, Kuykendall: Boating Safety: lifeguard rescue.

This bill includes the operation of offshore ocean lifeguard rescue vessels as a boating safety and enforcement program entitled to receive state financial aid for boating safety and enforcement programs for counties.

UPDATE: In Assembly Committee on Water, Parks and Wildlife. This is a two-year bill.

AB 749, Kuykendall: Operating Vessels Under the Influence.

This bill makes it an infraction for a person under the age of 21 years to operate a motorized recreational vessel with a blood alcohol level of .01% or more. [Current law makes it an infraction to be operating a vessel under the age 18 with a blood alcohol level of .05%]

UPDATE: In Assembly Committee on Public Safety. This is two-year bill.

SB 893, Leslie: Harbors and Watercraft Revolving Fund.

This bill requires the Department of Parks and Recreation to submit a report to the Legislature each year describing the allocation and expenditure of funds received from the Harbors and Watercraft Revolving Fund and the Motor Vehicle Fuel Account of the Transportation Tax Fund. The report must itemize the specific project or use, location, and amount of money allocated or expended, the source of funds allocated or expended, and the

relation of the project or use to boating activities and facilities.

UPDATE: Passed by the Senate; currently in Assembly Committee on Appropriations, Suspense File. (Suspense File bills are bills that have a financial impact over a specified threshold; the bills are voted on during one hearing towards the end of the legislative session.

9. BILLS REGARDING FUNDING SOURCES.

AB 117, Knowles: Proposition 117: California Wildlife Protection Act of 1990.

This bill would repeal Proposition 117 upon approval of the voters. The bill would restore unencumbered money transferred by the California Wildlife Protection Act to the Habitat Conservation Fund. The bill would also authorize taking mountain lions as game mammals under a license issued by the Department of Fish and Game for a \$1 fee. The revenue from the fee would be deposited into the Fish and Game Preservation Fund, a continuously appropriated fund.

UPDATE: In Assembly Committee on Water, Parks and Wildlife.

SB 749, Hayden: California Parks, Natural Resources, and Wildlife Bond Act of 1996.

This bill would enact the California Parks, Natural Resources, and Wildlife Bond Act of 1996. If adopted, the bond act would finance a program for the acquisition, development, rehabilitation, enhancement, restoration, or protection of park, beach, wildlife, and natural resources. The amount of bonds issued would be \$300 million.

UPDATE: In Senate Committee on Natural Resources and Wildlife.

SB 846, Thompson: State Coastal Conservancy: rivers, watersheds, and agricultural lands.

This bill would authorize the State Coastal Conservancy to award grants to local public agencies and nonprofit organizations outside the coastal zone for the purpose of acquiring conservation easements to prevent the loss of agricultural land to other uses, and to assemble agricultural lands into parcels of adequate size permitting continued agricultural production. [Current law only authorizes the Conservancy to award grants to entities located inside the coastal zone.]

UPDATE: In Senate Committee on Natural Resources and Wildlife.